
SENATE BILL No. 586

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-51-3.5.

Synopsis: Noneconomic damage awards. Provides that for an individual to be awarded noneconomic damages, the individual must establish the facts that are relied upon by clear and convincing evidence. Requires a trier of fact to use a verdict form that separates noneconomic damages from other damages that the individual claims. Provides that a trier of fact shall not consider certain factors in awarding noneconomic damages. Provides that a court shall review an award for noneconomic damages to determine whether a noneconomic damages award is excessive. Provides that an appellate court shall use a de novo standard of review in reviewing the record of the lower court in an appeal of a noneconomic damages award.

Effective: July 1, 2005.

Merritt

January 20, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 586

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-51-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:

4 **Chapter 3.5. Noneconomic Damages**

5 **Sec. 1. As used in this chapter, "noneconomic damages" means**
6 **damages awarded for the purpose of compensating an individual**
7 **for:**

- 8 (1) physical pain and suffering;
9 (2) mental or emotional pain or anguish;
10 (3) loss of consortium;
11 (4) disfigurement;
12 (5) physical impairment; or
13 (6) loss of companionship and society.

14 **Sec. 2. As used in this chapter, "pain and suffering" means**
15 **physical pain and suffering that are the proximate result of a**
16 **physical injury sustained by an individual.**

17 **Sec. 3. This chapter applies to all cases in which a party requests**



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the recovery of noneconomic damages in a civil action.

Sec. 4. Before an individual may recover noneconomic damages in a civil action, the individual must establish, by clear and convincing evidence, all the facts that are relied upon by the individual to support the recovery of noneconomic damages.

Sec. 5. If an individual claims noneconomic damages in a civil action, a trier of fact shall use a verdict form that separates the noneconomic damages from other damages that the individual claims.

Sec. 6. In determining noneconomic damages, a trier of fact shall not consider:

(1) evidence of a defendant's alleged:

- (A) wrongdoing;**
- (B) misconduct; or**
- (C) guilt;**

(2) evidence of a defendant's:

- (A) wealth; or**
- (B) financial resources; or**

(3) any other evidence that is offered for the purpose of punishing the defendant.

Sec. 7. (a) A plaintiff or defendant may file a postjudgment motion for the trial court to review a noneconomic damages award.

(b) After a motion is filed under subsection (a), a trial court shall review the noneconomic damages award and analyze all evidence supporting the noneconomic damages award. The court shall consider:

(1) whether the amount of the award was influenced by the:

- (A) passion or prejudice of the trier of fact;**
- (B) wealth of the defendant; or**
- (C) misconduct of the defendant and the noneconomic damages were awarded in a punitive manner; or**

(2) the severity of any physical injury and the amount of any economic loss.

(c) A trial court that upholds a noneconomic damages award that is challenged as excessive under this section shall set forth in writing the reasons for upholding the award.

(d) An appellate court shall use a de novo standard of review in reviewing the record of the trial court concerning a noneconomic damages award.

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